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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,834

11/04/2003

Steve Anspach

ANSPACH

5571

7590

12/01/2006

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EXAMINER

LEMMA, SAMSON B

ART UNIT

PAPER NUMBER

2132

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/699,834

Applicant(s)

ANSPACH, STEVE

Examiner

Samson B. Lemma

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.


**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
KAMBIZ ZAND  
PRIMARY EXAMINER

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11/05 & 07/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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### ***DETAILED ACTION***

1. This is in reply to application filed on November 04, 2003. Claims 1-27 have been examined.

### ***Priority***

2. This application claims priority of a provisional application, application No. 60/502,660 filed on September 15, 2003. Therefore, the effective filing date for the subject matter defined in the pending claims of this application is **09/15/2003.**

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. **Claims 1-27** are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over **claims 1-27** of the copending Application No. 10/739,289 (hereinafter referred to as '**289 application.**') Although the conflicting claims are not identical, they are not patentably distinct from each other.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

**The following is referring to the independent claims**

- **As per independent claims 1, 12 and 24 :** Claims 1, 12 and 24 of the instant application and **claims 1, 10, 20 and 27** of the '289 application recite similar/same limitation about encapsulating a serial data stream of encrypted data into IP packets; and transmitting said IP packets of encrypted data on a public IP network. Although the conflicting claims are not identical, they are not patentably distinct from each other because, all elements/limitation of independent **claims 1, 12 and 24** of the instant application correspond to, or recited in the **claims 1, 10, 20 and 27** of the '289 application. The above independent claims of the present/instant application would have been obvious over claims 1, 10, 20 and 27 of the '289 application because each element of the claims of the present application is anticipated by the claims 1, 10, 20 and 27 of the '289 application.

**The following is referring to the dependent claims**

- **As per claims 2 and 13 :** Claim **2 and 13** of the instant application and **claims 2 and 11** of the '289 application further recite similar/same limitation of the same subject matter.
- **As per claims 3, 14 and 25:** Claim **3, 14 and 25 of the** instant application and **claims 3, 12 & 25-26** of the '289 application further recite similar/same limitation of the same subject matter.

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- **As per claims 4 and 15: Claims 4 and 15** of the instant application and **claims 4, 13 and 21** of the '289 application further recite similar/same limitation of the same subject matter.
- **As per claims 5-7,16-18 and 26: Claims 5-7,16-18 and 26** of the instant application and **claims 5 and 14** of the '289 application further recite similar/same limitation of the same subject matter.
- **As per claims 8 and 19: Claims 8 and 19** of the instant application and **claims 6,15 and 22-24** of the '289 application further recite similar/same limitation of the same subject matter.
- **As per claims 9-10, 20-21 and 27: Claims 9-10, 20-21 and 27** of the instant application and **claims 7-9 and 16-17** of the '289 application further recite similar/same limitation of the same subject matter.
- **As per claims 11, 22 and 23: Claims 11, 22 and 23** of the instant application and **claim 18-19** of the '289 application further recite similar/same limitation of the same subject matter.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. **Claims 1-2, 8-13, 19-24 and 27** are rejected under 35 U.S.C. 102(b) as being anticipated by **Turtiainen et al** (Hereinafter referred as **Turt**) (U.S. Publication No.

2002/0059516 A1, Publication date: May 16, 2002)

7. **As per independent claims 1, 12 and 24 Turt discloses** a method of cloaking encrypted data, comprising:

- **Encapsulating** [Figure 5, see "Sender passes encrypted data to TCP/IP layers for segmentation and encapsulation"]
- **a serial data stream of encrypted data into IP packets** [Figure 5, see "Streamed VoIP data encrypted at sender using encryption data"] (furthermore, it is shown on figure 1 and on the last limitation of claim 1 or on paragraph 0016, **the IP datagram** from the first node shown on figure 1, ref. Num 1 is transmitted to the second node shown on figure 1, ref. Num "4" through the public IP network/internet, shown on figure 1, ref. Num "5"] ; **and**
- **Transmitting said IP packets of encrypted data on a public IP network** [See, Figure 1, paragraph 0016/claim 1] (it is shown on figure 1 and on the last limitation of claim 1 or on paragraph 0016, the IP datagram from the first node shown on figure 1, ref. Num 1 is transmitted to the second node shown on figure 1, ref. Num "4" through the public IP network/internet, shown on figure 1, ref. Num "5").

8. **As per independent claims 2 and 13 Turt discloses a method as applied to claims above. Furthermore, Turt discloses the method wherein: said public network is an Internet.** [Figure 1, ref. Num "5" and paragraph 0016/claim 1] (As it is shown on figure 1 and on the last limitation of claim 1 or on paragraph 0016, the IP datagram from the first node shown on figure 1, ref. Num 1 is transmitted to the second node shown on figure 1, ref. Num "4" through the public IP network/internet, shown on figure 1, ref. Num "5").

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9. **As per independent claims 8-10 and 19-21 and 27 Turt discloses a method as applied to claims above. Furthermore, Turt discloses the method wherein: said serial data stream of encrypted data comprises: Voice over IP (VOIP) data.** [Figure 5, see "Streamed VoIP data encrypted at sender using encryption data"]
10. **As per independent claims 11 and 22-23 Turt discloses a method as applied to claims above. Furthermore, Turt discloses the method further comprising: combining data from two voice sources into said serial data stream before said encapsulation.** [As it is shown on the abstract, the method is used for sending stream data such as VoIP which inherently contains combining voice sources and as shown on figure 5, then after that, the encapsulation is done on the VoIP which meets the limitation recited as "combining source voice before said encapsulation").

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 3-7, 14-18 and 25-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Turtiainen et al** (Hereinafter referred as **Turt**) (U.S. Publication No. 2002/0059516 A1, Publication date: May 16, 2002) in view of article written with the title, "The complete PC solution for the KIV-7") (Hereinafter referred as "complete pc solution") (Copyright 2002) (reference U)
13. **As per claims 3, 14 and 25 Turt discloses a method of cloaking encrypted data, comprising:**

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- **Encapsulating** [Figure 5, see "Sender passes encrypted data to TCP/IP layers for segmentation and encapsulation"]
- **a serial data stream of encrypted data into IP packets** [Figure 5, see "Streamed VoIP data encrypted at sender using encryption data"]; **and**
- **Transmitting said IP packets of encrypted data on a public IP network** [See, Figure 1, paragraph 0016/claim 1] (it is shown on figure 1 and on the last limitation of claim 1 or on paragraph 0016, the IP datagram from the first node shown on figure 1, ref. Num 1 is transmitted to the second node shown on figure 1, ref. Num "4" through the public IP network/internet, shown on figure 1, ref. Num "5").

**Turt** does not explicitly disclose said IP packets are transmitted via an ISDN router.

However, in the same field of endeavor "complete pc solution", discloses that KlasHopper makes it easy to perform real time videoconferencing using PC connected to a KIV-7. And, KIV-7 is an encryption device. It is also disclosed that it can connect to any remote device including **routers and popular ISDN Terminal Adapter** that supports PPP. Furthermore at the end of page 1, it has been disclosed that KlasHopper works with all standard networking protocols including **TCP/IP**. [See page 1, see also the drawings on page 2]

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to combine the features using ISDN router as per teachings of "complete pc solution" into the method as taught **by Turt so that it can connect to KIV-7 encrypted sites that may not be using KlasHopper.** [See "complete pc solution" page 1, third paragraph]



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14. **As per claims 4 and 15 Turt discloses** a method of cloaking encrypted data, comprising:

- **Encapsulating** [Figure 5, see "Sender passes encrypted data to TCP/IP layers for segmentation and encapsulation"]
- **a serial data stream of encrypted data into IP packets** [Figure 5, see "Streamed VoIP data encrypted at sender using encryption data"]; **and**
- **Transmitting said IP packets of encrypted data on a public IP network** [See, Figure 1, paragraph 0016/claim 1] (it is shown on figure 1 and on the last limitation of claim 1 or on paragraph 0016, the IP datagram from the first node shown on figure 1, ref. Num 1 is transmitted to the second node shown on figure 1, ref. Num "4" through the public IP network/internet, shown on figure 1, ref. Num "5").

**Turt** does not explicitly disclose said IP packets are transmitted over satellite terminal.

However, in the same field of endeavor "complete pc solution", discloses that said IP packets are transmitted over satellite terminal.[ See the drawing on Page 2, "Satellite"]

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to combine the features transmitting over satellite terminal as per teachings of "complete pc solution" into the method as taught **by Turt in order to make easy dial and answer call with a KIV-7 for PC to PC based file transfer . [See "complete pc solution" page 2 last Paragraph]**

15. **As per claims 5-7, 16-18 and 26 Turt discloses** a method of cloaking encrypted data, comprising:

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- **Encapsulating** [Figure 5, see “Sender passes encrypted data to TCP/IP layers for segmentation and encapsulation”]
- **a serial data stream of encrypted data into IP packets** [Figure 5, see “Streamed VoIP data encrypted at sender using encryption data”]; **and**
- **Transmitting said IP packets of encrypted data on a public IP network** [See, Figure 1, paragraph 0016/claim 1] (it is shown on figure 1 and on the last limitation of claim 1 or on paragraph 0016, the IP datagram from the first node shown on figure 1, ref. Num 1 is transmitted to the second node shown on figure 1, ref. Num “4” through the public IP network/internet, shown on figure 1, ref. Num “5”).

**Turt** does not explicitly disclose said encrypting data using a Type 1 encryption unit, wherein said Type 1 encryption unit comprises: a KIV type encryption unit and , wherein said Type 1 KIV-type encryption unit comprises: a KIV-7 encryption unit.

However, in the same field of endeavor “complete pc solution”, discloses said encrypting data using a Type 1 encryption unit, wherein said Type 1 encryption unit comprises: a KIV type encryption unit and , wherein said Type 1 KIV-type encryption unit comprises: a KIV-7 encryption unit. [See page 1]

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to combine the features of using KIV-7 encryption unit as per teachings of “complete pc solution” into the method as taught **by Turt in order to make easy and secure dial and answer call with a KIV-7 for PC to PC based file transfer . [See “complete pc solution” page 2 last Paragraph]**

### **Conclusion**

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (See PTO-Form 892).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samson B Lemma whose telephone number is 571-272-3806. The examiner can normally be reached on Monday-Friday (8:00 am---4: 30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BARRON JR GILBERTO can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**SAMSON LEMMA**

S.L.

11/18/2006

AU 2132

  
KAMBIZ ZAND  
PRIMARY EXAMINER